



Information Privacy Act 2009

Information Privacy Regulation 2009

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Queensland

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Information Privacy Regulation 2009

Part 1 Preliminary

1 Short title

This regulation may be cited as the *Information Privacy Regulation 2009*.

2 Commencement

- (1) This regulation, other than section 5(2), commences on 1 July 2009.
- (2) Section 5(2) commences immediately after the commencement of chapter 5 of the Act.

Part 2 Requirements for evidence of identity

3 Evidence of identity—Act, ss 43(4) and 44(6), definition *evidence of identity*

- (1) For sections 43(4) and 44(6) of the Act, the evidence of identity prescribed for a person is a document verifying the person's identity, including, for example—
 - (a) a passport; or
 - (b) a copy of a certificate or extract from a register of births; or
 - (c) a driver licence; or
 - (d) a statutory declaration from an individual who has known the person for at least 1 year; or

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- (e) if the person is a prisoner within the meaning of the *Corrective Services Act 2006*—a copy of the person’s identity card from the department administering that Act that is certified by a corrective services officer within the meaning of that Act.
- (2) If a document under this section, other than a document mentioned in subsection (1)(e), is a photocopy of an original document, the document must be certified by a qualified witness as being a correct copy of the original document.
- (3) In this section—
qualified witness means—
 - (a) a lawyer or notary public; or
 - (b) a commissioner for declarations; or
 - (c) a justice of the peace.

Part 3 Access charge

4 Amount of access charge—Act, s 77

- (1) The access charge under section 77 of the Act in relation to an access application for a document is the total of—
 - (a) the actual cost incurred by the agency or Minister for any of the following—
 - (i) any engagement of another entity to search for and retrieve the document;
 - (ii) any relocation of the document necessary to allow access to be given to the document;

Example—

A document may be transported from Cairns to Brisbane to give access to an applicant who lives in Brisbane.

- (iii) any written transcription of the words recorded or contained in a document mentioned in section 83(1)(d) of the Act;
- (iv) any creation of a written document mentioned in section 83(1)(e) of the Act;
- (v) otherwise giving access to the document (except by giving the applicant a black-and-white photocopy of the document in A4 size), for example, by the reproduction of the document; and

Examples—

- a licensing fee payable for copying an X-ray
 - a licensing fee payable for reproducing a duplicate document created using licensed software
- (b) if the applicant is given a black-and-white photocopy of the document in A4 size—0.25 fee units for each page.
- (2) The access charge in relation to an application for a document must not include the actual cost of—
 - (a) if access to the document is given by emailing the document to the applicant—the email; or
 - (b) if access to the document is given by giving the document to the applicant on a disc—the disc.
 - (3) Subsection (4) applies for working out the amount of a fee under this section.
 - (4) For the purpose of the *Acts Interpretation Act 1954*, section 48C(3), the amount is to be rounded to the nearest multiple of 5 cents (rounding one-half upwards).

Example—

Subsection (1)(b) prescribes a fee of 0.25 fee units. If the value of a fee unit for this regulation were \$1.50, the number of dollars obtained by multiplying \$1.50 by 0.25 would be \$0.375. Because \$0.375 is halfway between \$0.35 and \$0.40, it is rounded upwards, so the amount of the fee for subsection (1)(b) would be \$0.40.

Part 4 Requirements for annual reports

5 Report to Speaker and parliamentary committee on operations of OIC—Act, s 193

- (1) For section 193(3) of the Act, details of the following matters must be included in a report under section 193(2) of the Act in relation to the financial year to which the report relates—
 - (a) the number of external review applications reviewed by the information commissioner;
 - (b) for an application for external review that results in a decision under section 123 of the Act—
 - (i) the decision of the commissioner; and
 - (ii) if the decision results in access to a document being refused—the particular provisions of the Act under which access was refused;
 - (c) the number of times and the way in which the commissioner has used the entitlement to full and free access to documents under section 113 of the Act;
 - (d) the number of applications made under section 127 of the Act for a declaration that a person is a vexatious applicant and the number of declarations under that section made by the commissioner;
 - (e) approval of waivers or modifications of the privacy principles under chapter 4, part 5 of the Act;
 - (f) compliance notices given under chapter 4, part 6 of the Act.
- (2) Also, for section 193(3) of the Act, the report must include, in relation to the financial year to which the report relates, details of the number of privacy complaints received and the outcome of the information commissioner's dealing with those complaints, including—

- (a) the number of complaints the commissioner has declined to deal with or has declined to continue dealing with; and
- (b) the grounds for declining to deal with the complaints under paragraph (a); and
- (c) the categories of relevant entities to which the complaints relate; and
- (d) the provisions of the privacy principles to which the complaints relate; and
- (e) the number of complaints referred by the commissioner to other entities under section 169 of the Act; and
- (f) the number and type of complaints resolved by agreement after mediation; and
- (g) the number and type of complaints referred to QCAT under chapter 5, part 4 of the Act.

6 Report to Assembly on Act's operation—Act, s 194

For section 194(2) of the Act, details of the following matters must be included in a report under section 194(1) of the Act in relation to the financial year to which the report relates—

- (a) the number of access applications and amendment applications received by each agency or Minister;
- (b) for each agency or Minister—
 - (i) the number of refusals to deal with an access application under section 59 of the Act; and
 - (ii) the number of refusals to deal with an access or amendment application under section 60 of the Act; and
 - (iii) the number of refusals to deal with an access application under section 62 of the Act; and
 - (iv) the number of refusals to deal with an amendment application under section 63 of the Act;

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- (c) for each agency or Minister—the number of refusals of access under each paragraph of section 47(3) of the Right to Information Act, as applied by section 67 of the Act, and any other particular provision of the Right to Information Act relevant to the refusal;
- (d) for each agency or Minister—
 - (i) the number of deemed decisions under sections 66 and 71 of the Act; and
 - (ii) the number of decisions on internal review taken to have been made under section 97(2) of the Act;
- (e) for each agency or Minister—the number of refusals of amendment under each provision of section 72(1) of the Act;
- (f) for each agency or Minister—
 - (i) the number of internal review applications received; and
 - (ii) for each application, whether the decision on the internal review was different from the decision subject to internal review, and how it was different;
- (g) for each agency or Minister—
 - (i) the number of external review applications made in relation to a decision of the agency or Minister; and
 - (ii) the number of external review applications where there was no preceding internal review application to the agency or Minister; and
 - (iii) the number of decisions on external review that affirmed the decision of the agency or Minister; and
 - (iv) the number of decisions on external review that varied the decision of the agency or Minister; and
 - (v) the number of decisions on external review that set aside the decision of the agency or Minister and

made another decision in substitution for the decision of the agency or Minister;

- (h) any disciplinary action taken against an officer in relation to the administration of the Act;
- (i) any proceedings brought for an offence against section 184(1) or (3) of the Act;
- (j) for each agency or Minister—the amount of charges received under the Act;
- (k) any other relevant fact indicating an effort by an agency or Minister to further the object of the Act.

Part 5 Declaration

7 Principal office—Act, sch 5, definition *principal officer*, paragraph (e)

For each of the following public authorities, the office of vice-chancellor of the public authority is declared to be the principal office for the Act, schedule 5, definition *principal officer*, paragraph (e)—

- Central Queensland University
- Griffith University
- James Cook University
- Queensland University of Technology
- The University of Queensland
- University of Southern Queensland
- University of the Sunshine Coast.